

DEC 29 2008

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

KEITH E. PEER,

Defendant - Appellant.

No. 07-30122

D.C. No. CR-04-00038-FVS

MEMORANDUM^{*}

Appeal from the United States District Court
for the Eastern District of Washington
Fred L. Van Sickle, District Judge, Presiding

Submitted December 17, 2008^{**}

Before: GOODWIN, TROTT, and RYMER, Circuit Judges.

Keith E. Peer appeals from the 235-month sentence imposed, on remand, for conspiracy to distribute methamphetamine, in violation of 21 U.S.C. § 846. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Peer contends that his sentence is unreasonable because the district court failed to adequately consider the disparity between his sentence and the sentences of his co-defendants. We reject this contention. *See United States v. Carty*, 520 F.3d 984, 993 (9th Cir. 2008) (en banc); *see also United States v. Marcial-Santiago*, 447 F.3d 715, 719 (9th Cir. 2006).

Peer also contends that the district court erred under U.S.S.G. § 6A1.3 and Federal Rule of Criminal Procedure 32 when it applied certain sentencing enhancements based on facts found in the presentence report (“PSR”) and in special jury verdicts instead of making its own independent findings. We conclude that the district court sufficiently stated its findings on the record as to any disputed facts, and that the court did not otherwise err in relying on the PSR or the special verdict findings. *See United States v. Doe*, 488 F.3d 1154, 1158-59 (9th Cir. 2007); *see also United States v. Cabbacang*, 481 F.3d 1176, 1186 (9th Cir. 2007).

AFFIRMED.